FINAL TEXT

Add to California Code of Regulations, title 22,
division 4.5, chapter 51.5

Chapter 51.5 Phase I Environmental Site Assessments (Schools)

Section 69100. Purpose.

The purpose of these regulations is to establish guidelines for a Phase I Environmental Site Assessment (Phase I) conducted prior to acquisition of a school site, or where the school district owns or leases a school site, prior to the construction of a project (hereinafter referred to as "Proposed School Site") under title 1, division 1, part 10.5, chapter 1 of the Education Code (commencing with section 17210). These regulations establish guidelines for completion of a Phase I and a Phase I Addendum. The Phase I Addendum includes procedures for sampling and submission of analysis results for lead in soil from lead-based paint and/or polychlorinated biphenyls in soil from electrical transformers in Phase I Addendum reports to the Department of Toxic Substances Control.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Section 69101. Applicability.

This chapter applies to the preparation of a Phase I pursuant to section 17213.1 of the Education Code.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Section 69102. Definitions.

The definitions set forth in this section govern interpretation of this chapter. Unless the context requires otherwise and except as provided in this section, definitions contained in title 1, division 1, part 10.5, chapter 1 of the Education Code (commencing with section 17210) or in division 20, chapter 6.8 of the Health and Safety Code (commencing with section 25300) apply to the terms used in this chapter. If a definition

appears in both title 1, division 1, part 10.5, chapter 1 of the Education Code and in division 20, chapter 6.8 of the Health and Safety Code, the definition in the Education Code governs interpretation of this chapter.

(a) “Phase I Addendum” means a report containing results of sampling and analysis, limited to results of lead in soil from lead-based paint and/or polychlorinated biphenyls in soil from electrical transformers, that is submitted to the Department along with or after the submittal of the Phase I.

(b) “Department” means the Department of Toxic Substances Control.

(c) “Phase I” means a Phase I Environmental Site Assessment.

(d) “PCBs” means polychlorinated biphenyls.

(e) “USEPA Test Methods” means “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods” as referenced in section 69103, subsection (a)(2).

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Section 69103. References.

(a) When used in this chapter, the following publications are incorporated by reference:

(1) “American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process,” ASTM Standard E-1527, adopted May 10, 2000; available from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, (610) 832-9585; website http://www.astm.org.

(2) “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW-846 Third Edition, November 1986, as amended by Updates I (July, 1992), II (September, 1994), IIA (August, 1993), IIB (January, 1995), III (December, 1996), IIIA (April, 1998), IVA (January, 1998) and IVB (November, 2000); available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, (202) 512-1800; website http://www.epa.gov/SW-846/ main.htm.

(3) “USEPA Contract Laboratory Program National Functional Guidelines for Organic Data Review,” EPA 540/R-94/012; February 1994, available from National Technical Information Service (NTIS), United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; (703) 487-4650.; website http://www.epa.gov/region09/qa/supfundclp.html.

(4) “USEPA Contract Laboratory Program National Functional Guidelines for Inorganic Data Review,” EPA 540/R-94/013; February 1994, available from National Technical Information Service (NTIS); United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161; (703) 487-4650.; website http://www.epa.gov/region09/qa/supfundclp.html.

(5) “Guidance on Environmental Data Verification and Data Validation,” EPAQA/G-8; Peer Review Draft, June 2001, available from United States Environmental Protection Agency, Quality Staff (2811 R), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; (202) 564-6830; website http://www.epa.gov/Region10/offices/oea/epaqag8.pdf.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Section 69104. Preparation of a Phase I.

(a) A Phase I shall be prepared for the Proposed School Site pursuant to section 17213.1, subdivision (a) of the Education Code. The Phase I may be submitted to the Department for review and approval.

(b) The Phase I shall be conducted in accordance with the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process cited in section 69103, subsection (a)(1).

(c) The Phase I may contain results of sampling as follows: lead in soils from lead-based paint, performed in accordance with the sampling protocols described in section 69105 of these regulations, and/or PCBs in soil from electrical transformers, performed in accordance with the sampling protocol described in section 69106 of these regulations. If a Phase I has already been completed and submitted to the Department, these sampling results may be submitted as a Phase I Addendum.

(d) The Phase I shall include the following:

(1) a site map describing the boundary of the project and the current development on the property,

(2) a description of the intended use of the property that includes whether the school district intends to use all or a portion of the parcel, the type of school proposed, and the disposition of any existing structures, and

(3) past and existing land uses, including but not limited to, easements; adjacent properties; former governmental use; residential, industrial, or commercial uses.

(e) If a Phase I Addendum is submitted more than 180 days subsequent to the date that the Phase I was conducted, or if a Phase I was conducted for the Proposed School Site more than 180 days prior to its submittal to the Department, information to verify current site conditions shall be submitted to the Department. Verification activities include, but are not limited to, the following: (1) a site reconnaissance visit; (2) any changes to site conditions or site boundaries; and (3) updated review of environmental records, as described in the American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process cited in section 69103, subsection (a)(1).

(f) The Phase I shall identify and evaluate all sources for the potential release or presence of hazardous material on the Proposed School Site, including, but not limited to, all of the following:

(1) agricultural use,
(2) mines,
(3) surface drainage pathways,
(4) fill material,
(5) debris,
(6) illegal drug manufacturing, and
(7) naturally occurring hazardous materials.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Section 69105. Sampling for Lead in Soil from Lead-based Paint.

(a) The school district may choose to submit sampling data for lead in soil from lead-based paint in one of the following reports: (1) the Phase I; or (2) the Phase I

Addendum; or (3) the Preliminary Endangerment Assessment, in accordance with subsections (b) through (g) below.

(b) Based upon review of the Phase I, the Department may determine that lead contamination in soil from lead-based paint is the only potential source of contamination at a Proposed School Site, and may require that sampling data for lead in soil from lead-based paint be submitted in the Phase I Addendum or the Preliminary Endangerment Assessment.

(c) Prior to demolition of buildings or removal of foundations or slabs, or movement of soils on the Proposed School Site, pre-demolition sampling for lead in soil from lead-based paint shall be implemented in accordance with the following protocols:

(1) Sample collection. Surface soil samples (zero to six inches, inclusive) shall be collected from around the perimeter of the structures, adjacent to areas with the highest likelihood of lead deposits (such as under windows, doors, porches, fences and stairs, drainage areas). If concrete or asphalt borders a structure, samples shall be collected from the nearest unpaved areas, including unpaved drainage areas where the run off from the paved areas may collect. The Department may require collection of samples from underneath existing paved areas, based upon the history of the property. The Department shall be consulted to determine the number and location of samples necessary to adequately characterize lead in soil from lead-based paint at the Proposed School Site.

(2) *Additional sample collection*. If lead from lead-based paint is identified in the soil, the Department may require additional step-out borings on the Proposed School Site to determine the lateral and vertical extent of contamination.

(d) If demolition of buildings has occurred and foundations or slabs are no longer present, post-demolition sampling for lead in soil from lead-based paint shall be implemented in accordance with the following protocols.

(1) Sample collection. The Proposed School Site shall be divided into grids as determined in consultation with the Department, and surface and subsurface soil samples shall be taken from the center of each grid.

(2) Additional sample collection. If lead from lead-based paint is identified in the soil after demolition, the Department may require additional step-out borings on the Proposed School Site to determine the lateral and vertical extent of contamination.

(e) Sample Analysis. Soil samples shall be analyzed for lead using USEPA Test Methods. Alternatively, on-site field analyses for lead in soil may be conducted using field portable X-Ray Fluorescence (XRF) instrumentation.

(f) Laboratory Quality Control. Quality Control (QC) procedures specified in USEPA Test Methods shall be followed. The data shall be qualified in accordance with

the National Functional Guidelines cited in section 69103, subsection (a)(4) and USEPA guidance cited in section 69103, subsection (a)(5).

(g) Data Submission. Data identifying concentrations of lead detected in soil samples collected from the Proposed School Site shall be submitted to the Department.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Section 69106. Sampling for PCBs in Soil from Electrical Transformers.

(a) The school district may choose to submit data for PCBs in soil from electrical transformers in one of the following reports: (1) the Phase I; or (2) the Phase I Addendum; or (3) the Preliminary Endangerment Assessment, in accordance with subsections (b) through (f) below. Based upon review of the Phase I, the Department may determine that PCB sampling data must be submitted in a Phase I Addendum or a Preliminary Endangerment Assessment.

(b) PCB transformer evaluation. If visual staining of the soil in proximity to a transformer is observed, or if historical information indicates transformers may have contained PCBs, the Department may require collection of soil samples to evaluate the possible contamination.

(c) *Sample collection.* Soil samples shall be collected in close proximity to the base of each pole or pad-mounted electrical transformer. Soil samples shall be collected at surface (zero to six inches, inclusive) and at a depth of two to three feet below ground surface. If PCBs from electrical transformers are identified in the soil, the Department may require additional step-out borings on the Proposed School Site to determine the lateral and vertical extent of contamination.

(d) *Sample analysis.* Initially, only surface samples shall be analyzed for PCBs using USEPA Test Methods ~~test methods~~. If PCBs are detected in surface samples, the samples that were collected at depth shall also be analyzed.

(e) *Laboratory Quality Control.* QC procedures specified in USEPA Test Methods shall be followed. The data shall be qualified in accordance with the National Functional Guidelines cited in section 69103, subsection (a)(3) and USEPA guidance cited in section 69103, subsection (a)(5).

(f) *Data Submission*. Data identifying concentrations of PCBs detected in soil samples collected from the Proposed School Site shall be submitted to the Department.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.

Section 69107. Phase I Recommendations.

The Phase I shall contain one of the following recommendations:

(a) No action is required for the Proposed School Site. A Phase I or Phase I Addendum that contains data from investigation of lead in soil from lead-based paint or PCBs in soil from electrical transformers may recommend that no further site investigation is required if the Phase I and/or Phase I Addendum demonstrate that lead and/or PCB concentrations in soils do not exceed concentrations determined by the Department on a case-by-case basis to be protective of human health and the environment.

(b) Investigation of lead in soil from lead-based paint and/or PCBs in soil from electrical transformers is recommended but has not yet been completed. Results of this investigation will be submitted to the Department as a Phase I Addendum.

(c) A Preliminary Endangerment Assessment is required, including sampling to determine one or more of the following:

(1) If a release of hazardous material has occurred and, if so, the extent of the release.

(2) If there is the threat of a release of hazardous materials.

(3) If a naturally occurring hazardous material is present.

Note: Authority cited: Section 58012, Health and Safety Code; Section 17210(g), Education Code; Reference: Sections 17210(g) and 17213.1, Education Code.